

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DAVID J. WILLIAMS,

Petitioner,

Case No. 22-cv-12923
Hon. Matthew F. Leitman

v.

MICHIGAN DEPARTMENT OF
CORRECTIONS, et al.,

Respondents.

**ORDER DENYING PETITIONER'S MOTION FOR
ENLARGEMENT OF TIME [ECF NO. 1] WITHOUT PREJUDICE**

Before the Court is Michigan prisoner David J. Williams' motion for enlargement of time to file a petition for a writ of habeas corpus under 28 U.S.C. § 2254. The clerk filed the document as a habeas petition under 28 U.S.C. § 2254. Petitioner states that he intends to file a habeas petition, but requires additional time to review and research the issues involved in his case to file the petition. (ECF No. 1, PageID.2.) Petitioner has not paid the filing fee or applied to proceed *in forma pauperis*.

Petitioner's motion for enlargement of time must be denied because he has not yet filed a habeas petition. Petitioner cannot request relief from his filing deadline before he has initiated a habeas case in this Court. For Petitioner to seek equitable tolling (which permits a Court to toll the statute of limitations under limited

circumstances, *see Robertson v. Simpson*, 624 F.3d 781, 783 (6th Cir. 2010)), he must first file a habeas petition. *United States v. Asakevich*, 810 F.3d 418, 421 (6th Cir. 2016) (explaining that a court cannot give “pre-approval” of equitable tolling before a habeas petition is filed).

For the foregoing reasons, Petitioner’s motion for an enlargement of time to file his habeas petition (ECF No. 1) is **DENIED WITHOUT PREJUDICE**. When and if Petitioner files a petition for a writ of habeas corpus, the Court will review his request that the Court toll the statute of limitations and/or otherwise deem his petition to be timely filed.

IT IS SO ORDERED.

s/Matthew F. Leitman

MATTHEW F. LEITMAN

UNITED STATES DISTRICT JUDGE

Dated: June 6, 2023

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on June 6, 2023, by electronic means and/or ordinary mail.

s/Holly A. Ryan

Case Manager

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